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A Handbook for Grand Jurors in Illinois

Prepared for the use of grand jurors
by the Sub-Committee appointed
by the Executive Committee of the
Illinois Judicial Conference

ILLINOIS DOCUMENTS

JAN 27 1983

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PREFACE

This book is written to help you understand your duties as a grand juror, with some practical suggestions to assist you in carrying out these duties. It is not intended to be a complete statement of the law governing the role of the grand jury in the administration of criminal justice. In the event of any question, you may always seek the advice and counsel of the Court.

THE GRAND JURY

The Constitution of our State provides that no person shall be held to answer for a crime punishable by death or by imprisonment in the penitentiary unless either the initial charge has been brought by indictment of a grand jury or the person has been given a prompt preliminary hearing to establish probable cause.

For centuries the grand jury has had a dual function. It determines that a person should be charged or prosecuted for a criminal act when it finds that there is probable cause to believe that the person has committed an offense. At the same time, it protects the innocent from unfounded accusation of crime and from the trouble, expense and anxiety of a trial when there is, in fact, insufficient evidence to believe the accused is guilty of any criminal offense. The grand jury thus stands between the citizen and the State, pledged to bring before the Court to answer to a charge of having committed a crime persons against whom there is evidence of guilt and to prevent the unjust indictment of those who are accused of crime without sufficient evidence or because of private motives or popular feelings.

SELECTION OF THE GRAND JURY

A grand jury is composed of 23 citizens chosen as provided by law from among the residents of the county in which it serves. During the time of your service, you should report

promptly as directed and accept your duties with seriousness. At least 16 members must be present at each session before the grand jury may transact any business.

As grand jurors you will serve until you are ordered discharged by the Circuit Court in your county, and you will meet at such times as the Court may direct or order on its own motion or that of the State's Attorney.

IMPORTANCE OF JURY SERVICE

Personal inconvenience may be caused by jury service, but if we are to preserve the grand jury as part of our democratic way of life it is necessary that citizens from all walks of life serve on grand juries. As a grand juror you will act as an officer of the Court together with the lawyers and judges. Only a small percentage of citizens are ever privileged to serve as grand jurors. This may be your only opportunity to be a part of our judicial system.

Grand jurors are paid an amount per day set by state law or determined by the county board. This is a small sum, but you should consider grand jury service a privilege of citizenship and your compensation in the nature of an honorarium. To serve as a grand juror is one of the highest responsibilities of citizenship, just as it is to vote or to serve in the defense of your country. Once you have served on a grand jury you will find this experience worthwhile and important and you will always remember the part you played in the court system.

ORGANIZATION OF THE GRAND JURY

Before the grand jury begins its work, the Court will select a foreman from among the grand jury panel. The foreman presides over all sessions of the grand jury, and has the responsibility to see that a quorum of at least 16 members is present at all times. The foreman is also charged with the duty of swearing witnesses who appear before the grand jury and with performing other tasks in connection with the voting of indictments.

After the foreman is selected and sworn, the other members of the grand jury will then take the following oath:

"You and each of you do solemnly swear (or affirm, as the case may be), that you will diligently inquire into and true presentment make of all such matters and things as shall be given you in charge, or shall otherwise come to your knowledge, touching the present service; you shall present no person through malice, hatred or ill-will; nor shall you leave any unpresented through fear, favor, affection, or for any fee or reward, or for any hope or promise thereof; but in all of your presentments, you shall present the truth, the whole truth, and nothing but the truth, according to the best of your skill and understanding; so help you God".

CHARGE OF THE COURT

After taking the oath, the Court will instruct you concerning the duties which the law of this State places upon grand juries. The Court may also charge you specifically to investigate certain matters.

POWERS AND DUTIES OF THE GRAND JURY

The grand jury has the duty of inquiring into matters relating to crime or corruption in the county. This information generally comes to its knowledge in the following ways:

1. Information called to its attention by the Court.
2. Information submitted by the State's Attorney.
3. Information that may come to its knowledge in the course of its investigation of other matters.
4. Information that it has of its own knowledge.

Most of the cases that you will consider as a grand juror will be brought to your attention and come before you as a result of the inves-

tigation and preparation by the State's Attorney. He is the officer charged by law with the prosecution of crime in the county. However, the grand jury possesses broad powers of its own to inquire into crime and corruption in the county. It has a right under the law to make its own investigation unaided by the Court and assisted by any prosecuting attorney. On petition signed by the foreman and 11 other grand jurors showing good cause for same, the Court may appoint an investigator or investigators to assist the grand jury in its inquiries. Included in this power of investigation is the right of the grand jury to subpoena witnesses and documents.

While neither the Court nor the State's Attorney may limit the scope of a grand jury investigation, you should remember that these officials are available for advice and counsel in any investigation the grand jury may wish to undertake. Ordinarily, the grand jury will not act independently of the Court and the State's Attorney. However, if these officials may be concerned in any investigation contemplated by the grand jury, the jury has a right to seek the advice of the Attorney General.

GRAND JURY WITNESSES

Generally the State's Attorney will arrange to have witnesses available to appear before the grand jury and ordinarily only witnesses for the State will be called to testify. In this way, proceedings before the grand jury differ from a trial of a case. However, the grand jury itself has the right to subpoena and question any person against whom the State's Attorney is seeking a Bill of Indictment, or any other person, and to obtain and examine any documents or transcripts relevant to the matter being presented by the State's Attorney. The State's Attorney will inform the grand jury of these and other rights prior to the commencement of its duties and, again, before the consideration of each matter or charge before it.

Witnesses may have legal counsel present in the grand jury room to advise them of their rights but counsel may not participate during the proceedings in any other way. If a witness

requires an interpreter, the Court will authorize his presence in the grand jury room.

INDICTMENTS

When the witnesses have finished their testimony, it is then your duty to weigh the evidence which has been presented and to decide whether the evidence is sufficient to require the person or persons named to stand trial and answer the charge. The grand jury is the sole judge of the sufficiency of the evidence required to indict.

After hearing the evidence and discussing the case among yourselves, the foreman will exclude all unauthorized persons from the grand jury room and call for a vote. If a majority of 12 or more jurors vote to require the defendant to stand trial for the offense, the State's Attorney will prepare a Bill of Indictment to be signed by the foreman and returned into open Court. If the grand jury by its vote refuses to hold the defendant for trial, the State's Attorney may prepare a written memorandum to such effect, entitled, "No Bill."

PRIVILEGE AGAINST SELF-INCRIMINATION

The Constitution of this State provides that no person shall be forced to give testimony that would implicate him in a criminal offense. On occasion, therefore, a witness before the grand jury may refuse to testify on the ground that his testimony would incriminate him.

The grand jury may decide that the witness is not justified in refusing to answer. In that event, the grand jury has a right to appear before the Court in a hearing where the judge will decide whether the answers which the witness is requested to give may incriminate him. If the Court decides that the witness must answer, he will be ordered to give the grand jury the information it seeks or face punishment for contempt.

The State's Attorney may decide to ask the Court to grant the witness immunity from prosecution for any criminal conduct he may reveal

by his testimony. If the Court grants such immunity, the witness is required to answer completely the questions asked by the State's Attorney or grand jurors, but the witness may not thereafter be prosecuted for any crimes his testimony reveals.

Ordinarily, potential defendants do not appear before the grand jury as witnesses. On occasion, however, when the grand jury is conducting a broad investigation of criminal conduct, people who might later be the subject of indictment may be called to testify. Such a person, of course, has the right to refuse to answer questions which may incriminate him. If the witness is willing to sign a waiver of his immunity from self-incrimination his testimony will be received. The grand jury should seek the legal advice of the State's Attorney in dealing with a witness who may be a potential defendant.

It is important for you, as a grand juror, to avoid any feeling of hostility or prejudice toward a witness who invokes the privilege against self-incrimination. This is a constitutional right and your deliberations should not be influenced by his refusal to testify.

GRAND JURY SECRECY

Unlike many governmental bodies whose actions must be taken openly and their deliberations conducted openly, the grand jury conducts its proceedings in the strictest secrecy. No one but the State's Attorney or his assistants, his stenographic reporter, the witnesses, or other persons authorized by the Court or by law are allowed to be present in the jury room. In furtherance of justice and upon grounds of public policy, the law requires that the proceedings of grand juries shall be regarded as privileged communications. The secrets of the grand jury room shall not be revealed, except by the State's Attorney solely in the performance of his duties, when the Court directs otherwise in the interest of justice, or when a law authorizes the disclosure.

As a grand juror, therefore, you should adhere strictly to this rule of secrecy. During your service you must not discuss grand jury matters with your family, friends or others.

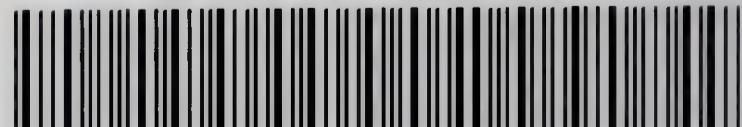
The reason for this is plain. You must base your vote only upon the evidence that you hear in the grand jury room. The opinions or comments that friends, relatives or other outsiders may offer are not evidence. If you should be asked to discuss grand jury matters by persons outside the grand jury room you may simply say that the law does not permit you to do so. If anyone persists in discussing these matters or tries to influence you in any manner, it is your legal duty to report this to the Court immediately.

In the same way, you should avoid newspapers or radio and television broadcasts which may feature accounts of pending grand jury matters. These may be onesided or incomplete.

RESPONSIBILITY OF THE GRAND JURY

It is important for you, as a grand juror, to remember that you occupy an important position in the administration of criminal justice. While the grand jury is an arm of the Court, it has the right to act independently of the Court and the State's Attorney. A grand juror should always act only upon the evidence before him, giving the case serious and thoughtful consideration. Grand jurors cannot be held civilly or criminally responsible for their actions in voting an indictment against a defendant. A grand jury which acts fearlessly and conscientiously in discharging its duties will always fulfill its obligation to the public.

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